



UNITED STATES GOVERNMENT  
**NATIONAL LABOR RELATIONS BOARD**  
FREEDOM OF INFORMATION ACT BRANCH  
Washington, D.C. 20570

Via email

August 15, 2022

Re: FOIA Request NLRB-2022-001580

Dear Robert Nagle (Fox Rothschild LLP)

This is in response to your request, under the Freedom of Information Act (FOIA), 5 U.S.C. § 552, received on July 18, 2022, in which you seek a copy of the appeal filed in *United Metro Energy Corp.*, Case No. 29-CA-277743. You assumed financial responsibility for the processing of your request in the amount of \$1.00.

We acknowledged your request on July 18, 2022. We have confirmed that you are Counsel for the Charged Party Employer.

Your request is granted in part and denied in part, as explained below.

A search of the Agency's electronic casehandling system, NxGen, has been conducted. Upon review, I have determined that the record responsive to your request is part of the investigative file in an open case before the Agency, and thus is exempt from disclosure pursuant to FOIA Exemption 7(A), 5 U.S.C. § 552(b)(7)(A). Exemption 7(A) allows an agency to withhold records included in an open investigatory file where disclosure could reasonably be expected to interfere with a pending enforcement proceeding. See *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 236 (1978).

However, in accordance with the General Counsel's longstanding policy of providing copies of the appeal to the parties in response to a FOIA request, I have attached a copy of the Charging Party's appeal statement (nine pages). Redactions have been made to portions of the responsive record to protect the privacy interests of individuals named in the record. These redactions were made pursuant to FOIA Exemption 6, which protects personally identifiable information, the release of which would constitute a clearly unwarranted invasion of personal privacy, FOIA Exemption 7(C), which protects records or information compiled for law enforcement purposes, the release of which could reasonably be expected to constitute an unwarranted invasion of personal privacy, and Exemption 7(D), which protects information, the release of which "could reasonably be expected to disclose the identity of a confidential source..." where the information is provided under an express assurance of confidentiality, or in circumstances from

which such an assurance could be reasonably inferred. 5 U.S.C. § 552(b)(6), (b)(7)(C), and (b)(7)(D).

We have placed you in Category A, commercial use requester. This category refers to requests “from or on behalf of a person who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made, which can include furthering those interests through litigation.” NLRB Rules and Regulations, 29 C.F.R.

§ 102.117(d)(1)(v). Consistent with this fee category, you may “be assessed charges to recover the full direct costs of searching for, reviewing for release, and duplicating the records sought.” 29 C.F.R. § 102.117(d)(2)(ii)(A). Charges are \$9.25 per quarter hour of professional time. 29 C.F.R. § 102.117(d)(2)(i).

However, as a matter of our administrative discretion, the Agency is voluntarily providing the requested records to you at no cost. This voluntary disclosure is non-precedential.

You may contact Timothy Bearese, the Attorney-Advisor who processed your request, at (202) 273-3752 or by email at [Timothy.Bearese@nrlb.gov](mailto:Timothy.Bearese@nrlb.gov), as well as the Agency’s FOIA Public Liaison, for any further assistance and/or to discuss any aspect of your request. The FOIA Public Liaison, in addition to the Attorney-Advisor, can further explain responsive and releasable agency records, suggest agency offices that may have responsive records, and/or discuss how to narrow the scope of a request in order to minimize fees and processing times. The contact information for the FOIA Public Liaison is:

Kristine M. Minami  
FOIA Public Liaison  
National Labor Relations Board  
1015 Half Street, S.E., 4<sup>th</sup> Floor  
Washington, D.C. 20570  
Email: [FOIAPublicLiaison@nrlb.gov](mailto:FOIAPublicLiaison@nrlb.gov)  
Telephone: (202) 273-0902  
Fax: (202) 273-FOIA (3642)

After first contacting the Agency, you may additionally contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA dispute resolution services it offers. The contact information for OGIS is:

Office of Government Information Services  
National Archives and Records Administration  
8601 Adelphi Road-OGIS  
College Park, Maryland 20740-6001  
Email: [ogis@nara.gov](mailto:ogis@nara.gov)

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Telephone: (202) 741-5770

Toll free: (877) 684-6448

Fax: (202) 741-5769

You may obtain a review of this determination under the NLRB Rules and Regulations, 29 C.F.R. § 102.117(c)(2)(v), by filing an administrative appeal with the Division of Legal Counsel (DLC) through FOIAonline at: <https://foiaonline.gov/foiaonline/action/public/home> or by mail or email at:

Nancy E. Kessler Platt  
Chief FOIA Officer  
National Labor Relations Board  
1015 Half Street, S.E., 4<sup>th</sup> Floor  
Washington, D.C. 20570  
Email: [DLCFOIAAppeal@nrlrb.gov](mailto:DLCFOIAAppeal@nrlrb.gov)

Any appeal must be postmarked or electronically submitted within 90 calendar days of the date of this letter. Any appeal should contain a complete statement of the reasons upon which it is based.

Please be advised that contacting any Agency official (including the Attorney-Advisor, FOIA Officer, or the FOIA Public Liaison) and/or OGIS does not stop the 90-day appeal clock and is not an alternative or substitute for filing an administrative appeal.

Sincerely,

*/s/ Synta E. Keeling*

Synta E. Keeling  
FOIA Officer

Attachment: (nine pages)